

SENATE BILL No. 461

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-24; IC 9-14-3-0.3; IC 9-19-2-1; IC 13-11-2; IC 13-13-6; IC 13-14; IC 13-15-4-1; IC 13-18; IC 13-20; IC 13-23; IC 13-24-1-4; IC 13-25-4; IC 32-21; IC 36-7-13.5-3.

Synopsis: Environmental issues. Repeals the electronic digital signature act and the law establishing the northwest Indiana advisory board. Allows the use in motor vehicle air conditioning equipment of a toxic or flammable refrigerant if the refrigerant has been approved by the United States Environmental Protection Agency. Allows, in streamlined rulemaking processes, the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements. Replaces the undefined term "sanitary landfill" with "solid waste landfill". Directs the state fire marshal to establish a training program for owners, managers, and operators of underground storage tank (UST) facilities, and permits use of the underground petroleum storage tank excess liability trust fund (ELTF) for expenses of training. Modifies the deductible for claims against the ELTF by certain UST owners, and increases the annual claim limit from \$3,000,000 to \$7,000,000, subject to the commissioner's discretion and the fund balance. Eliminates the differential claim limit for facilities with less than 100 USTs. Repeals the underground petroleum storage tank trust fund and merges the provisions of that fund with the ELTF. Establishes relative cleanup responsibilities between a UST owner and the owner of property on which the UST is located. Standardizes the state's ability to recover costs, including project oversight costs, among all environmental remediation and cleanup programs managed by the Indiana department of environment management (IDEM). Establishes deadlines for IDEM
(Continued next page)

Effective: Upon passage; July 1, 2009.

Gard

January 14, 2009, read first time and referred to Committee on Energy and Environmental Affairs.



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action on various permit applications with respect to certain solid waste processing facilities. Permits IDEM to establish a drinking water apprenticeship program. Allows suspension or revocation of a drinking water or wastewater operator certification if another state has decertified or taken similar action against the operator. For purposes of wastewater management statutes, replaces the term "wastewater" with "septage". Requires disclosure upon the sale of residential property of known controlled substance contamination if the property has not been certified as decontaminated. Provides that an owner or agent is required to disclose knowledge of a psychologically affected property in a real estate transaction if the property is listed on the methamphetamine registry web site.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-14-3-0.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.3. As used in this
3 chapter, "digital signature" ~~has the meaning set forth in IC 5-24-2-1.~~
4 **means an electronic signature that transforms a message using an**
5 **asymmetric cryptosystem so that a person having the initial**
6 **message and the signer's public key can accurately determine**
7 **whether:**
8 **(1) the transformation was created using the private key that**
9 **corresponds to the signer's public key; and**
10 **(2) the initial message has been altered since the**
11 **transformation was made.**
12 SECTION 2. IC 9-19-2-1 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** Air conditioning
14 equipment:
15 **(1)** shall be manufactured, installed, and maintained with due



regard for the safety of the occupants of the vehicle and the public; and

(2) except as provided in subsection (b), may not contain a refrigerant that is toxic to individuals or that is flammable.

(b) Air conditioning equipment may contain a refrigerant that is toxic to individuals or that is flammable if the refrigerant is included in the list published under 42 U.S.C. 7671k(c) by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorfluorocarbon 12.

SECTION 3. IC 13-11-2-17, AS AMENDED BY P.L.2-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) "Board", except as provided in subsections (b) through (i); **(h)**, refers to:

- (1) the air pollution control board;
- (2) the water pollution control board; or
- (3) the solid waste management board.

~~(b)~~ **"Board"**, for purposes of IC 13-13-6, refers to the northwest Indiana advisory board.

~~(c)~~ **(b)** "Board", for purposes of IC 13-17, refers to the air pollution control board.

~~(d)~~ **(c)** "Board", for purposes of IC 13-18, refers to the water pollution control board.

~~(e)~~ **(d)** "Board", for purposes of:

- (1) IC 13-19;
- (2) IC 13-20;
- (3) IC 13-22;
- (4) IC 13-23, except IC 13-23-11;
- (5) IC 13-24; and
- (6) IC 13-25;

refers to the solid waste management board.

~~(f)~~ **(e)** "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

~~(g)~~ **(f)** "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

~~(h)~~ **(g)** "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

~~(i)~~ **(h)** "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the clean manufacturing technology board.

SECTION 4. IC 13-11-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management

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1 special fund.

2 (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility
3 operator trust fund.

4 (c) "Fund", for purposes of IC 13-15-11, refers to the environmental
5 management permit operation fund.

6 (d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust
7 fund.

8 (e) "Fund", for purposes of IC 13-17-8, refers to the Title V
9 operating permit program trust fund.

10 (f) "Fund", for purposes of IC 13-17-14, refers to the lead trust fund.

11 (g) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

12 (h) "Fund", for purposes of IC 13-18-13, refers to the wastewater
13 revolving loan fund established by IC 13-18-13-2.

14 (i) "Fund", for purposes of IC 13-18-21, refers to the drinking water
15 revolving loan fund established by IC 13-18-21-2. The term does not
16 include the supplemental fund established by IC 13-18-21-22.

17 (j) "Fund", for purposes of IC 13-19-5, refers to the environmental
18 remediation revolving loan fund established by IC 13-19-5-2.

19 (k) "Fund", for purposes of IC 13-20-4, refers to the municipal waste
20 transportation fund.

21 (l) "Fund", for purposes of IC 13-20-13, refers to the waste tire
22 management fund.

23 (m) "Fund", for purposes of IC 13-20-22, refers to the state solid
24 waste management fund.

25 (n) "Fund", for purposes of IC 13-21-7, refers to the waste
26 management district bond fund.

27 (o) "Fund", for purposes of IC 13-21-13-2, refers to a district solid
28 waste management fund.

29 ~~(p) "Fund", for purposes of IC 13-23-6, refers to the underground~~
30 ~~petroleum storage tank trust fund.~~

31 ~~(q)~~ (p) "Fund", for purposes of IC 13-23-7, refers to the
32 underground petroleum storage tank excess liability trust fund.

33 ~~(r)~~ (q) "Fund", for purposes of IC 13-25-4, refers to the hazardous
34 substances response trust fund.

35 ~~(s)~~ (r) "Fund", for purposes of IC 13-25-5, refers to the voluntary
36 remediation fund.

37 ~~(t)~~ (s) "Fund", for purposes of IC 13-28-2, refers to the voluntary
38 compliance fund.

39 SECTION 5. IC 13-11-2-150, AS AMENDED BY P.L.221-2007,
40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2009]: Sec. 150. (a) "Owner", for purposes of IC 13-23
42 (except as provided in subsections (b), (c), and (d)) means **the**

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following:

(1) For an underground storage tank that ~~(A)~~ was: ~~(i)~~
 (A) ~~in use not closed in accordance with IC 13-23 or~~
~~IC 13-7-20 (before its repeal) or as required by this title or~~
~~a rule adopted under this title on or before November 8,~~
~~1984; or (ii)~~

(B) brought into use after November 8, 1984, for the storage,
 use, or dispensing of regulated substances;

a person who owns the ~~underground storage~~ tank or **property**
upon which the tank is located. ~~(B)~~

(2) For an underground storage tank that ~~is~~ was: ~~(i)~~

(A) in use before November 8, 1984; but ~~(ii)~~

(B) ~~no longer in use~~ **closed in accordance with IC 13-23 or**
IC 13-7-20 (before its repeal) or as required by this title or
a rule adopted under this title on or before November 8,
1984;

a person who owned the tank immediately before the
~~discontinuation closure of the tank's use;~~ tank or who owns the
property upon which the tank was or is located.

(3) For an underground storage tank that:

(A) **is closed in accordance with IC 13-23 or IC 13-7-20**
(before its repeal) or as required by this title or a rule
adopted under this title; and

(B) **had a release subject to corrective action (as defined in**
329 IAC 9-1-14.5, as in effect on January 1, 2009);

a person who owns the property on which the tank was or is
located. ~~or~~

~~(2)~~ (4) For an underground storage tank if a person who
~~conveyed~~ ownership or control of the underground storage tank
is conveyed to a political subdivision (as defined in IC 36-1-2-13)
 or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under
 IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of
 property once an offer to purchase has been tendered under
 IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in
 IC 36-7-1-3) or conducting redevelopment activities,

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specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5; (H) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

the person who conveyed ownership or control of the underground storage tank to the political subdivision or unit or federal or state government, if the person was a person described in subdivision (1) or (2) immediately before the person conveyed ownership or control of the underground storage tank.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank because of:

(1) bankruptcy;

(2) foreclosure;

(3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;

(4) abandonment;

(5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(6) receivership;

(7) transfer from another political subdivision or unit of federal or state government;

(8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1,

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IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a regulated substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

SECTION 6. IC 13-11-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 167. "Portable sanitary unit", for purposes of ~~IC 13-18-12~~, **this chapter**, includes the following:

- (1) Portable toilets.
- (2) Mobile restrooms.
- (3) Similar devices or equipment of a portable nature containing sanitary facilities for temporary or short term use.

SECTION 7. IC 13-11-2-199.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 199.2. "Septage", for purposes of this chapter and IC 13-18-12, means the following:**

(1) The following from sewage disposal systems:

(A) Human excreta.

(B) Water.

(C) Scum.

(D) Sludge.

(E) Sewage.

(F) Incidental or accidental seepage.

(2) Retained contents of wastewater holding tanks and portable sanitary units.

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(3) Grease, fats, and retained wastes from grease traps or interceptors.

(4) Wastes carried in liquid from ordinary living processes.

SECTION 8. IC 13-11-2-199.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 199.3. "Septage management", for purposes of IC 13-18-12, includes the following:

(1) The cleaning of sewage disposal systems.

(2) The transportation, storage, treatment, or disposal of septage.

SECTION 9. IC 13-11-2-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 201. "Sewage disposal system", for purposes of **this chapter**, IC 13-18-12, and **IC 13-20-17.5**, means septic tanks, ~~wastewater~~ **septage** holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

(1) store;

(2) treat;

(3) make inoffensive; or

(4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.

SECTION 10. IC 13-11-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 208. "Solid waste landfill", for purposes of IC 13-20-9, ~~IC 13-20-21-6~~, **IC 13-20-21**, and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

SECTION 11. IC 13-11-2-258 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 258. "Wastewater treatment plant", for purposes of IC 13-18-11, **IC 13-20-17.5**, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal systems.

SECTION 12. IC 13-14-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Except as provided in sections 4.5, 7, ~~and 8~~, and **14** of this chapter, a board may not adopt a rule under this chapter until the board has conducted at least two (2)

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public comment periods, each of which must be at least thirty (30) days in length.

SECTION 13. IC 13-14-9-8, AS AMENDED BY P.L.204-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Unless a board determines that a proposed rule should be subject to additional comments or makes a determination described in subsection (f), sections 2 through 7 and sections 9 through 14 of this chapter do not apply to a rulemaking action if the commissioner determines that:

(1) the proposed rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the proposed rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in section 7(a)(2) of this chapter from the following:

(A) Exposing the proposed rule to diverse public comment under section 3 or 4 of this chapter.

(B) Affording interested or affected parties the opportunity to be heard under section 3 or 4 of this chapter.

(C) Affording interested or affected parties the opportunity to develop evidence in the record collected under sections 3 and 4 of this chapter.

(b) If the commissioner makes a determination under subsection (a), the commissioner shall prepare written findings under this section. The full text of the commissioner's written findings shall be included in:

(1) the notice of adoption of the proposed rule; and

(2) the written materials to be considered by the board at the public hearing held under this section.

(c) The notice of adoption of a proposed rule under this section must:

(1) be published in the Indiana Register; and

(2) include the following:

(A) Draft rule language that includes the language described

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in subsection (a)(1).

(B) A written comment period of at least thirty (30) days.

(C) A notice of public hearing before the appropriate board.

(d) The department shall include the following in the written materials to be considered by the board at the public hearing referred to in subsection (c):

(1) The full text of the proposed rule as most recently prepared by the department.

(2) Written responses of the department to written comments received during the comment period referred to in subsection (c).

(3) The commissioner's findings under subsection (b).

(e) At the public hearing referred to in subsection (c), the board may:

(1) adopt the proposed rule;

(2) adopt the proposed rule with amendments;

~~(2) (3)~~ reject the proposed rule;

~~(3) (4)~~ determine that additional public comment is necessary; or

~~(4) (5)~~ determine to reconsider the proposed rule at a subsequent board meeting.

(f) If the board determines under subsection (e) that additional public comment is necessary, the department shall publish a second notice in accordance with section 4 of this chapter and complete the rulemaking in accordance with this chapter.

(g) If the board adopts the proposed rule with amendments under subsection (e), the amendments must meet the logical outgrowth requirements of section 10(b) of this chapter except that the board shall consider the comments provided to the board under the public hearing referred to in subsection (c)(2)(C).

SECTION 14. IC 13-14-9-14, AS ADDED BY P.L.100-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Sections 1 through 13 of this chapter do not apply to a rule adopted under this section.

(b) The water pollution control board may use the procedures in this section to adopt a rule to establish new water quality standards for a community served by a combined sewer that has:

(1) an approved long term control plan; and

(2) an approved use attainability analysis that supports the use of a CSO wet weather limited use subcategory established under IC 13-18-3-2.5.

(c) After the department approves the long term control plan and use attainability analysis, the department shall publish in the Indiana Register a notice of adoption of a proposed rule to establish a CSO wet

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weather limited use subcategory for the area defined by the approved use attainability analysis.

(d) The notice under subsection (c) must include the following:

(1) Suggested rule language that amends the designated use to allow for a CSO wet weather limited use subcategory in accordance with IC 13-18-3-2.5.

(2) A written comment period of at least thirty (30) days.

(3) A notice of public hearing before the water pollution control board.

(e) The department shall include the following in the written materials to be considered by the water pollution control board at the public hearing referred to in subsection (d)(3):

(1) The full text of the proposed rule as most recently prepared by the department.

(2) Written responses of the department to written comments received during the comment period referred to in subsection (d)(2).

(3) The letter prepared by the department approving the long term control plan and use attainability analysis.

(f) At the public hearing referred to in subsection (d)(3), the board may:

(1) adopt the proposed rule to establish a new water quality standard amending the designated use to allow for a CSO wet weather limited use subcategory;

(2) adopt the proposed rule with amendments;

~~(2) (3)~~ reject the proposed rule; or

~~(3) (4)~~ determine to reconsider the proposed rule at a subsequent board meeting.

(g) If the board adopts the proposed rule with amendments under subsection (f), the amendments must meet the logical outgrowth requirements of section 10(b) of this chapter except that the board shall consider the comments provided to the board under the public hearing referred to in subsection (d)(3).

~~(g)~~ **(h)** The department shall submit a new water quality standard established in a rule adopted under subsection ~~(f)(1)~~ **(f)** to the United States Environmental Protection Agency for approval.

SECTION 15. IC 13-14-13-2, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

~~(1) Standards established under IC 5-24 and corresponding rules.~~

~~(2) (1)~~ Requirements of cross-media electronic reporting under 40

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~~(3)~~ (2) Procedures established by the department to accept electronic information.

SECTION 16. IC 13-14-13-4, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are

~~(1)~~ acceptable to the state board of accounts under IC 5-24; and
~~(2)~~ consistent with 40 CFR 3.

SECTION 17. IC 13-14-13-6, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person is subject to applicable state or federal civil, criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

- (1) is in place of a paper document under this chapter; and
- (2) fails to comply with the following:

~~(A)~~ Standards established under IC 5-24 and supporting rules.

~~(B)~~ (A) Requirements of cross-media electronic reporting under 40 CFR 3.

~~(C)~~ (B) Procedures established by the department to accept electronic information.

SECTION 18. IC 13-15-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

- (1) Three hundred sixty-five (365) days for an application concerning the following:

(A) A new hazardous waste or solid waste landfill.

(B) A new hazardous waste or solid waste incinerator.

(C) A major modification of a solid waste landfill.

(D) A major modification of a solid waste incinerator.

(E) A new hazardous waste treatment or storage facility.

(F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.

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- 1 (G) A Class 3 modification under 40 CFR 270.42 to a
 2 hazardous waste landfill.
- 3 **(H) A new solid waste processing facility other than a**
 4 **transfer station.**
- 5 (2) Two hundred seventy (270) days for an application concerning
 6 the following:
- 7 (A) A Class 3 modification under 40 CFR 270.42 of a
 8 hazardous waste treatment or storage facility.
- 9 (B) A major new National Pollutant Discharge Elimination
 10 System permit.
- 11 **(C) A major modification to a solid waste processing**
 12 **facility other than a transfer station.**
- 13 (3) One hundred eighty (180) days for an application concerning
 14 the following:
- 15 (A) A new ~~solid waste processing or recycling facility.~~
 16 **transfer station or a major modification to a transfer**
 17 **station.**
- 18 (B) A minor new National Pollutant Discharge Elimination
 19 System individual permit.
- 20 (C) A permit concerning the land application of wastewater.
- 21 (4) One hundred fifty (150) days for an application concerning a
 22 minor new National Pollutant Discharge Elimination System
 23 general permit.
- 24 (5) One hundred twenty (120) days for an application concerning
 25 a Class 2 modification under 40 CFR 270.42 to a hazardous waste
 26 facility.
- 27 (6) Ninety (90) days for an application concerning the following:
- 28 (A) A minor modification to a **permit for the following:**
- 29 (i) A solid waste landfill. ~~or~~
- 30 (ii) **A solid waste processing facility.**
- 31 (iii) **An incinerator. permit.**
- 32 (B) A wastewater facility or water facility construction permit.
- 33 (7) The amount of time provided for in rules adopted by the air
 34 pollution control board for an application concerning the
 35 following:
- 36 (A) An air pollution construction permit that is subject to 326
 37 IAC 2-2 and 326 IAC 2-3.
- 38 (B) An air pollution facility construction permit (other than as
 39 defined in 326 IAC 2-2).
- 40 (C) Registration of an air pollution facility.
- 41 (8) Sixty (60) days for an application concerning the following:
- 42 (A) A Class 1 modification under 40 CFR 270.42 requiring

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prior written approval, to a hazardous waste:

- (i) landfill;
- (ii) incinerator;
- (iii) treatment facility; or
- (iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds forty-nine dollars (\$49) and for which a time frame has not been established under section 3 of this chapter.

(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

SECTION 19. IC 13-18-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) The ~~department~~ **board** shall adopt ~~regulations~~ **rules** to implement certification programs for operators of water treatment plants or water distribution systems. The certification program for the operators shall be classified in accordance with the complexity, size, and source of the water for the treatment system and the complexity and size for the distribution system.

(b) **The department may establish procedures for an apprenticeship program for the following:**

(1) **Water treatment plant operators.**

(2) **Water distribution system operators.**

SECTION 20. IC 13-18-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend or revoke the certificate of an operator, following a hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following conditions are found:

(1) The operator has practiced fraud or deception **in any state or other jurisdiction at any time.**

(2) Reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties.

(3) The operator is incompetent or unable to properly perform the operator's duties.

(b) A hearing and further proceedings shall be conducted in accordance with IC 4-21.5-7.

SECTION 21. IC 13-18-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The water pollution

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control board and the department shall regulate persons who provide ~~wastewater~~ **septage** management services.

SECTION 22. IC 13-18-12-2, AS AMENDED BY P.L.114-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person may not transport, treat, store, or dispose of ~~wastewater~~ **septage** in violation of this chapter.

(b) A person may not engage in:

(1) the cleaning of sewage disposal systems; or

(2) the transportation, treatment, storage, or disposal of ~~wastewater;~~ **septage**;

without a ~~wastewater~~ **septage** management permit unless the person is exempted under section 7 of this chapter.

(c) A person may not operate a vehicle for the transportation of ~~wastewater~~ **septage** without a ~~wastewater~~ **septage** management vehicle identification number issued under this chapter. ~~unless the person is exempted under section 4(a)(2) of this chapter.~~

(d) A person may not dispose of ~~wastewater~~ **septage** by land application without first obtaining approval of the land application site under this chapter.

(e) The department may issue a ~~wastewater~~ **septage** management permit that incorporates issuance of a ~~wastewater~~ **septage** management vehicle identification number and approval of a land application site.

(f) The department may issue new and renewal permits, identification numbers, and approvals under this chapter for a period the department determines appropriate. However, the period may not exceed three (3) years.

SECTION 23. IC 13-18-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The board shall initiate, in accordance with IC 13-15, a ~~wastewater~~ **septage** management permit program for all persons who offer to perform or are performing ~~wastewater~~ **septage** management services.

SECTION 24. IC 13-18-12-4, AS AMENDED BY P.L.114-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board shall, in accordance with IC 13-14-8, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of ~~wastewater~~ **septage** management permits under section 3 of this chapter.

(B) Cleaning of sewage disposal systems.

(C) Transportation, storage, and treatment of ~~wastewater;~~ **septage**, and disposal of ~~wastewater;~~ **septage**, including land application.

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(2) Issuance of identification numbers for all vehicles used in wastewater **septage** management services. ~~However, the board may exempt by rule vehicles licensed on September 1, 1983, under the industrial waste haulers rule 320 IAC 5-10 as the rule existed on September 1, 1983.~~

(3) Procedures and standards for approval of sites for land application of ~~wastewater~~ **septage**.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules adopted under this section.

SECTION 25. IC 13-18-12-5, AS AMENDED BY P.L.114-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the issuance of:

- (1) ~~wastewater~~ **septage** management permits;
- (2) ~~wastewater~~ **septage** management vehicle identification numbers; and
- (3) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars (\$100) per year.

(c) A vehicle identification number or land application approval fee may not exceed thirty dollars (\$30) per year per vehicle or site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 26. IC 13-18-12-7, AS AMENDED BY P.L.114-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. This chapter does not require a person to obtain a permit or vehicle identification number under this chapter if the person is:

- (1) engaged in:
 - (A) servicing or maintaining publicly owned wastewater treatment facilities; or
 - (B) transportation of wastewater from a publicly owned wastewater treatment facility;
 as long as the wastewater at that facility has been fully treated and is stabilized;
- (2) transporting ~~wastewater~~ **septage** from the point of its removal to another location on the same site or tract owned by the same person, although disposal of the ~~wastewater~~ **septage** must be done

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in accordance with this chapter; or
 (3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of ~~wastewater~~ **septage** must be done in compliance with this chapter.

SECTION 27. IC 13-20-17.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. After July 1, 2003, a person may sell or provide a mercury commodity to another person in this state (other than for collection for recycling) only if:

(1) the person selling or providing the mercury commodity provides a material safety data sheet with the mercury commodity; and

(2) the person selling or providing the mercury commodity requires the purchaser or recipient to sign a statement with respect to the mercury in the mercury commodity that the purchaser or recipient:

(A) will use the mercury only:

- (i) for medical purposes;
- (ii) in dental amalgam dispose-caps;
- (iii) for training;
- (iv) for research; or
- (v) for manufacturing purposes;

(B) understands that mercury is toxic;

(C) will store and use the mercury appropriately so that no individual is exposed to the mercury under normal conditions of use; and

(D) will not intentionally:

- (i) place or cause to be placed; or
- (ii) allow anyone under the control of the purchaser or recipient to place or cause to be placed;

the mercury commodity in solid waste for disposal, ~~or in a wastewater~~ **sewage** disposal system, **or in a wastewater treatment plant.**

SECTION 28. IC 13-20-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) Except as provided in subsections (b) and (c),** for solid waste permits, the application fees are as follows:

New Permit or Major Modification

	Fee
Sanitary Landfill	\$31,300
Construction\Demolition Site	\$20,000
Restricted Waste Site	

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1	Type I	\$31,300
2	Type II	\$31,300
3	Type III	\$20,000
4	Processing Facility	
5	Transfer Station	\$12,150
6	Other	\$12,150
7	Incinerator	\$28,650
8	Waste Tire Storage	
9	Registration	\$ 500
10	Waste Tire Processing	\$ 200
11	Waste Tire	
12	Transportation	\$ 25
13	Permit Renewal	
14	Sanitary Landfill	\$ 15,350
15	Construction\	
16	Demolition Site	\$ 7,150
17	Restricted Waste Site	
18	Type I	\$ 15,350
19	Type II	\$ 15,350
20	Type III	\$ 7,150
21	Processing Facility	
22	Transfer Station	\$ 2,200
23	Other	\$ 2,200
24	Incinerator	\$ 5,900
25	Waste Tire Processing	\$ 200
26	Minor Modification	
27	Minor Modification	\$2,500

(b) The fee for:

(1) a new permit; or

(2) a permit for a major modification;

for a solid waste landfill not covered by subsection (a) is thirty-one thousand three hundred dollars (\$31,300).

(c) The fee for a permit renewal for a solid waste landfill not covered by subsection (a) is fifteen thousand three hundred fifty dollars (\$15,350).

SECTION 29. IC 13-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. For solid waste, the annual operation fees are as follows:

39		Fee
40	Sanitary Solid Waste Landfill	
41	Not Otherwise Covered in This Section	
42	> 500 TPD	\$35,000

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1	250-499 TPD	\$15,000
2	100-249 TPD	\$ 7,000
3	<100 TPD	\$ 2,000
4	Construction\	
5	Demolition Site	\$ 1,500
6	Restricted Waste Site	
7	Type I	\$35,000
8	Type II	\$25,000
9	Type III	\$10,000
10	Processing Facility	
11	Transfer Station	\$ 2,000
12	Other	\$ 2,000
13	Incinerator	
14	>500 TPD	\$35,000
15	250-499 TPD	\$15,000
16	100-249 TPD	\$ 7,000
17	<100 TPD	\$ 2,000
18	Infectious Waste	
19	Incinerator (>7 TPD)	\$ 5,000
20	Waste Tire Storage	
21	Registration	\$ 500
22	Waste Tire Transportation	
23	Registration	\$ 25
24	Groundwater	
25	Compliance	
26	Sampling	
27	(per well)	\$ 250

SECTION 30. IC 13-20-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. Solid waste disposal fees must be paid by all solid waste disposal facilities, including ~~sanitary landfills;~~ **solid waste landfills**, incinerators, and construction\demolition disposal facilities. Solid waste disposal fees:

(1) for the period of January 1 through June 30 of each year are due on August 1 of that year; and

(2) for the period of July 1 through December 31 of each year are due on February 1 of the following year.

SECTION 31. IC 13-23-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The state fire marshal shall, under rules adopted by the fire prevention and building safety commission under IC 4-22-2, establish a certification program for persons who supervise, manage, or direct underground storage tank:

(1) installation or retrofitting;

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- (2) testing;
- (3) cathodic protection procedures; or
- (4) decommissioning.

(b) A person may be certified by the state fire marshal if the person submits evidence to the state fire marshal that the person has successfully completed:

- (1) the International Fire Code Institute examination; or
- (2) another appropriate examination approved by the state fire marshal.

(c) The state fire marshal may create a supplemental educational library concerning proper installation and closure of underground storage tanks, which includes the American Petroleum Institute's series, "An Education and Certification Program for Underground Storage Tank Professionals".

(d) The state fire marshal:

- (1) shall, under rules adopted by the fire prevention and building safety commission under IC 4-22-2, establish a training program for persons who own, manage, or operate underground storage tank facilities; and**
- (2) may delegate the training under the training program established under subdivision (1) to the division of preparedness and training in the department of homeland security.**

(e) The state fire marshal may apply to the excess liability fund to offset the expenses of training tank owners, managers, and operators.

SECTION 32. IC 13-23-7-1, AS AMENDED BY P.L.114-2008, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Subject to subsection (b), the underground petroleum storage tank excess liability trust fund is established for the following purposes:

- (1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.
- (2) Providing a source of money to satisfy liabilities incurred by owners and operators of underground petroleum storage tanks under IC 13-23-13-8 for corrective action.
- (3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3.
- (4) Providing a source of money to pay for the expenses of the department incurred in paying and administering claims against the trust fund. Money may be provided under this subdivision

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only for those job activities and expenses that consist exclusively of administering the excess liability trust fund.

(5) Providing a source of money to pay for the expenses of the department incurred in inspecting underground storage tanks.

(6) Providing a source of money for the expenses of training an owner, manager, or operator under IC 13-23-3-1.

(7) Providing a source of money for the uses set forth in IC 13-23-13-6.

(b) **Subject to IC 13-23-13-6(b)**, the combined amount of payments described in subsection (a)(4) and (a)(5) from the underground petroleum storage tank excess liability trust fund in a state fiscal year may not exceed ten percent (10%) of the fund income in the immediately preceding state fiscal year.

SECTION 33. IC 13-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Sources of money for the trust fund are the following:

(1) Fees and penalties paid under IC 13-23-12.

(2) Appropriations from the general assembly.

(3) Gifts and donations intended for deposit in the fund.

(4) Inspection fees paid under IC 16-44-2.

(5) Bond revenue under IC 4-4-11.2-7(a)(1).

(6) Any other money authorized to be deposited in or appropriated to the trust fund.

(7) Grants made by the United States Environmental Protection Agency to the state under cooperative agreements under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)).

(8) Costs recovered by the state under IC 13-23-13-8 in connection with any corrective action undertaken under IC 13-23-13-2 with respect to a release of petroleum.

(9) Costs recovered by the state in connection with the enforcement of this article with respect to any release of petroleum.

(10) Penalties imposed under IC 13-23-12 and IC 13-23-14 against owners and operators of underground petroleum storage tanks.

(11) Revenue from the underground petroleum storage tank registration fee deposited in the fund under IC 13-23-12-4.

SECTION 34. IC 13-23-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The expenses of administering the provisions of this article that are funded by the trust fund, including:

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- (1) IC 13-23-8;
- (2) IC 13-23-9;
- (3) IC 13-23-11; ~~and~~
- (4) IC 13-23-12; ~~and~~
- (5) IC 13-23-13-6.**

shall be paid from money in the fund.

SECTION 35. IC 13-23-8-3, AS AMENDED BY P.L.221-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

(1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars (\$35,000).

(2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment;

the amount is ~~twenty-five~~ **thirty** thousand dollars (~~\$25,000~~). **(\$30,000).**

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

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(C) has piping that has secondary containment;
the amount is twenty-five thousand dollars (\$25,000).

(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).

(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment; the amount is twenty thousand dollars (\$20,000).

SECTION 36. IC 13-23-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) **Except as provided in subsection (c),** an owner or operator of

~~(1) not more than one hundred (100) underground petroleum storage tanks may not receive more than two million dollars (\$2,000,000) from the excess liability trust fund during a year; and~~

~~(2) more than one hundred (100) underground storage tanks may not receive more than three seven million dollars (\$3,000,000) (\$7,000,000) from the excess liability trust fund during a year.~~

(b) If the right to receive money from the fund under this chapter is assigned as described in section 4(d) of this chapter, the combined amount of money received by the assignor and the assignee from the excess liability trust fund during a year may not exceed the limits established in subsection (a).

(c) The commissioner may authorize payment from the excess liability trust fund of approved claims in excess of the annual limit set forth in subsection (a) if the commissioner determines that the

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1 **fund balance is sufficient.**

2 SECTION 37. IC 13-23-11-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The board shall
4 do the following:

5 (1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to carry
6 out the duties of the board under this article.

7 (2) Take testimony and receive a written report at every meeting
8 of the board from the commissioner or the commissioner's
9 designee regarding the financial condition and operation of the
10 excess liability trust fund, including:

11 (A) a detailed breakdown of contractual and administrative
12 expenses the department is claiming from the excess liability
13 trust fund under IC 13-23-7-1(4); and

14 (B) a claims statistics report consisting of the status and value
15 of each claim submitted to the fund and claims payments made
16 under IC 13-23-8-1.

17 The testimony and written report under this subdivision shall be
18 provided at every meeting of the board. However, the testimony
19 and written report are not required more than one (1) time during
20 any thirty (30) day period.

21 (3) Consult with the department on administration of the
22 underground petroleum storage tank excess liability trust fund
23 established by IC 13-23-7-1 in developing uniform policies and
24 procedures for revenue collection and claims administration of the
25 fund.

26 (b) The department shall consult with the board on administration
27 of the underground petroleum storage tank excess liability trust fund.
28 The consultation must include evaluation of alternative means of
29 administering the fund in a cost effective and efficient manner.

30 ~~(c) At each meeting of the board, the department shall provide the~~
31 ~~board with a written report on the financial condition and operation of~~
32 ~~the underground petroleum storage tank trust fund established under~~
33 ~~IC 13-23-6-1.~~

34 SECTION 38. IC 13-23-12-4 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department of
36 state revenue shall collect fees paid under this chapter and deposit the
37 fees as follows:

38 (1) Fees paid in connection with underground petroleum storage
39 tanks shall be deposited as follows:

40 (A) ~~Forty-five dollars (\$45) shall be deposited~~ in the excess
41 liability trust fund.

42 (B) ~~Forty-five dollars (\$45) shall be deposited in the petroleum~~

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1 trust fund.

2 (2) Fees paid in connection with underground storage tanks used
3 to contain regulated substances other than petroleum shall be
4 deposited as follows:

5 (A) Forty-five dollars (\$45) shall be deposited in the
6 hazardous substances response trust fund.

7 (B) Two hundred dollars (\$200) shall be deposited in the
8 excess liability trust fund.

9 SECTION 39. IC 13-23-12-7, AS AMENDED BY P.L.137-2007,
10 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2009]: Sec. 7. (a) Except as provided in subsection (e), an
12 owner of an underground storage tank who:

13 (1) is required to pay the fee under section 1 of this chapter; and

14 (2) fails to pay the fee when due as established under section 2 of
15 this chapter;

16 shall be assessed a penalty of not more than two thousand dollars
17 (\$2,000) per underground storage tank for each year that passes after
18 the fee becomes due and before the fee is paid.

19 (b) Except as provided in subsection (c), each penalty assessed
20 under this section and collected from the owner of an underground
21 petroleum storage tank shall be deposited as follows:

22 (1) Fifty percent (50%) shall be deposited in the petroleum trust
23 fund.

24 (2) Fifty percent (50%) shall be deposited in the excess liability
25 trust fund.

26 (c) Penalties assessed under this section and collected from owners
27 of underground storage tanks used to contain regulated substances
28 other than petroleum shall be deposited in the hazardous substances
29 response trust fund.

30 (d) The penalty set forth in this section is in addition to the penalties
31 that may be imposed for the violation of a criminal law or under the
32 following:

33 (1) IC 13-23-14-2.

34 (2) IC 13-23-14-3.

35 (3) IC 13-23-14-4.

36 (4) IC 13-30-4.

37 (5) IC 13-30-5.

38 (6) IC 13-30-8.

39 (e) If an owner described in subsection (a) registered an
40 underground storage tank before January 1, 2004, the penalty
41 established in subsection (a) may not be assessed against the owner for
42 any failure to pay an annual registration fee under section 1 of this

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chapter:

(1) in connection with the underground storage tank; and

(2) that was due before January 1, 2004.

SECTION 40. IC 13-23-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The commissioner, under rules adopted under IC 13-23-1-2, may use money in the ~~petroleum trust~~ **excess liability** fund to pay the following costs and expenses associated with underground petroleum storage tanks:

(1) Costs incurred for corrective action conducted under cooperative agreements entered into between the state and the Administrator of the United States Environmental Protection Agency under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)), in accordance with the provisions of the cooperative agreements.

(2) Expenses incurred by the state for the following:

(A) Corrective actions that are ordered or undertaken under this chapter.

(B) Enforcement of this article.

(3) Expenses incurred by the state under section 8 of this chapter in recovering the costs of corrective actions undertaken under section 2 of this chapter.

(4) Administrative expenses and personnel expenses incurred by the state in carrying out this article.

(b) Payments from the excess liability fund for corrective action costs incurred by the fund under subsection (a)(1), (a)(2), and (a)(3) are not subject to the limitation set forth in IC 13-23-7-1(b).

SECTION 41. IC 13-23-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except where an owner or operator can prove that a release from an underground storage tank was caused solely by:

(1) an act of God;

(2) an act of war;

(3) negligence on the part of the state or the United States government; or

(4) any combination of the causes set forth in subdivisions (1) through (3);

the owner or operator of an underground storage tank is liable to the state for the actual costs of any corrective action taken under ~~section 2 of this chapter or IC 13-7-20-19(b)~~ (before its repeal) involving the underground storage tank and is responsible for undertaking any corrective action, including undertaking an exposure assessment, ordered under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its

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1 repeal), or IC 13-7-20-26 (before its repeal), or required by this title or
2 a rule adopted under this title.

3 (b) A person who:

- 4 (1) pays to the state the costs described under subsection (a); or
5 (2) undertakes corrective action resulting from a release from an
6 underground storage tank, regardless of whether the corrective
7 action is undertaken voluntarily or under an order issued under
8 this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or
9 IC 13-7-20-26 (before its repeal);

10 is entitled to receive a contribution from a person who owned or
11 operated the underground storage tank at the time the release occurred.
12 A person who brings a successful action to receive a contribution from
13 an owner or operator is also entitled to receive reasonable attorney's
14 fees and court costs from the owner or operator. An action brought
15 under this subsection may be brought in a circuit or superior court. In
16 resolving a contribution claim, a court may allocate the cost of a
17 corrective action among the parties to the action using equitable factors
18 that the court determines are appropriate.

19 (c) Money recovered by the state under this section in connection
20 with any corrective action undertaken with respect to a release of
21 petroleum shall be deposited in the ~~petroleum trust~~ **excess liability**
22 fund.

23 (d) Money recovered by the state under this section in connection
24 with any corrective action undertaken with respect to a release of a
25 regulated substance other than petroleum shall be deposited in the
26 hazardous substances response trust fund.

27 (e) The state may recover corrective action costs under this section
28 ~~in an action commenced by either or both of the following:~~

- 29 (1) **Commencement of an action** under IC 13-14-2-6,
30 IC 13-14-2-7, IC 13-7-5-7 (before its repeal), or IC 13-7-5-8
31 (before its repeal), ~~An action to recover corrective action costs~~
32 ~~under this section which~~ may be combined, as appropriate, with
33 an action to enforce an order issued under section 1 of this
34 chapter or IC 13-7-20-19(a) (before its repeal) to require
35 corrective action not already undertaken by the commissioner.

- 36 (2) **Imposition of a lien under IC 13-25-4-11 on the property**
37 **on which the corrective action was undertaken.**

38 (f) **The costs of corrective action that may be recovered by the**
39 **state under this section include:**

- 40 (1) **all direct and indirect costs incurred by the commissioner**
41 **under section 2 of this chapter; and**
42 (2) **all direct and indirect costs incurred by the commissioner**

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in connection with the administration and enforcement of this chapter, including oversight of corrective actions:

(A) ordered under this article; or

(B) otherwise undertaken by an owner, operator, or other person.

SECTION 42. IC 13-24-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except where an owner or operator can prove that a release from a petroleum facility was caused by:

(1) an act of God;

(2) an act of war;

(3) negligence on the part of a local government, the state government, or the federal government;

(4) except as provided in subsection (b), an act or omission of a responsible person; or

(5) a combination of the causes set forth in subdivisions (1) through (4);

the owner or operator is liable to the state for the reasonable costs of any response or remedial action taken under ~~section 2~~ of this chapter involving the petroleum facility. A responsible person is liable to the state for the reasonable costs of any response or remedial action taken under ~~section 2~~ of this chapter involving the petroleum facility.

(b) The owner, operator, or responsible person is entitled to all rights of the state to recover from another responsible person all or a part of the costs described in subsection (a) incurred or paid to the state by the owner, operator, or responsible person in an action brought in a circuit or superior court with jurisdiction in the county in which the release occurred.

(c) Money recovered by the state under this section in connection with a removal or remedial action undertaken with respect to a release of petroleum shall be deposited in the hazardous substances response trust fund.

(d) The state may recover removal or remedial action costs under this section as follows:

(1) Commence an action under IC 13-14-2-6 or IC 13-14-2-7.

(2) Impose a lien under IC 13-25-4-11 on the property on which the removal or the remedial action was undertaken.

(e) In an administrative action brought under this chapter, an environmental law judge shall apportion the costs of a response or a remedial action in proportion to each party's responsibility for a release.

(f) The costs of response, removal, or remedial action that may be recovered by the state under this section include:

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(1) all direct and indirect costs incurred by the commissioner under section 2 of this chapter; and

(2) all direct and indirect costs incurred by the commissioner in connection with the administration and enforcement of this chapter, including the cost of oversight of a response, removal, or remedial action that is:

(A) ordered under this article; or

(B) otherwise undertaken by an owner, operator, responsible person, or other person.

SECTION 43. IC 13-25-4-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.1. The costs of removal or remedial action that may be recovered by the state under section 8(a) of this chapter include:**

(1) all direct and indirect costs incurred by the commissioner under this chapter; and

(2) all direct and indirect costs incurred by the commissioner in connection with the administration and enforcement of section 8 of this chapter, including the cost of oversight of a removal or remedial action that is:

(A) ordered under this chapter; or

(B) otherwise undertaken by an owner, operator, responsible person, or other person.

SECTION 44. IC 13-25-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. (a)** After a response is initiated under:

(1) section 9 of this chapter; or

(2) IC 13-24-1; or

(3) **IC 13-23-13;**

the state may impose a lien on the property on which the response is undertaken. ~~The~~

(b) A lien imposed under subsection (a) may secure the payment to the state of an amount of money equal to the amount expended to finance the response from either or both of the following:

(1) The fund under either or both of the following:

(A) Section 1(a)(3) of this chapter. ~~to finance the response.~~

(B) IC 13-24-1-7.

(2) The petroleum trust fund under IC 13-23-13-6.

SECTION 45. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.** The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

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(1) Disclosure by the owner of the known condition of the following:

(A) The foundation.

(B) The mechanical systems.

(C) The roof.

(D) The structure.

(E) The water and sewer systems.

(F) Additions that may require improvements to the sewage disposal system.

(G) Other areas that the Indiana real estate commission determines are appropriate.

(2) Disclosure by the owner of known contamination by a controlled substance of property that has not been certified as decontaminated by an inspector approved under IC 13-14-1-15.

~~(2)~~ (3) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

~~(3)~~ (4) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

~~(4)~~ (5) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

SECTION 46. IC 32-21-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a) Except as provided in subsection (b),** an owner or agent is not required to disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction.

(b) Subsection (a) does not apply if the transferred property is listed on the methamphetamine registry web site described in IC 5-2-6-19.

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SECTION 47. IC 36-7-13.5-3, AS AMENDED BY P.L.33-2008,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 3. The commission consists of the following
members:

(1) The following members appointed by the governor:

(A) The mayor of East Chicago.

(B) The mayor of Gary.

(C) The mayor of Hammond.

(D) The mayor of Michigan City.

(E) The mayor of Portage.

(F) The mayor of Whiting.

(G) Two (2) representatives, each from a steel company that
owns land abutting Lake Michigan with a continuous shoreline
of not less than one (1) mile.

(H) One (1) representative of a company that:

(i) is not a steel company; and

(ii) owns land abutting Lake Michigan with a continuous
shoreline of not less than three-tenths (0.3) mile.

(I) One (1) representative of the department of environmental
management.

(J) One (1) representative of the department of natural
resources.

(K) One (1) representative of the Indiana department of
transportation.

(L) One (1) representative of Beverly Shores.

(M) One (1) representative of Burns Harbor.

(N) One (1) representative of Dune Acres.

(O) One (1) representative of Ogden Dunes.

~~(P) One (1) representative of the northwest Indiana advisory
board established under IC 13-13-6.~~

~~(Q)~~ (P) One (1) representative of a public utility that owns real
property that:

(i) is located in the counties contiguous to Lake Michigan;
and

(ii) has a total assessed value that exceeds the total assessed
value of real property in the counties contiguous to Lake
Michigan that is owned by any other public utility.

~~(R)~~ (Q) The port director of the Port of Indiana-Burns Harbor.

(2) One (1) member, preferably from a visitor and tourism
business, appointed by the lieutenant governor.

(3) Two (2) members appointed by the speaker of the house of
representatives who:

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1 (A) are members of the house of representatives;
 2 (B) represent house districts that have territory within the
 3 corridor; and
 4 (C) are not affiliated with the same political party.
 5 If all the house districts that have territory within the corridor are
 6 represented by members of the house of representatives who are
 7 from the same political party, the speaker shall appoint a member
 8 of the house of representatives who represents a house district that
 9 is located anywhere in a county that has territory within the
 10 corridor to satisfy the requirement under clause (C).
 11 (4) Two (2) members appointed by the president pro tempore of
 12 the senate who:
 13 (A) are members of the senate;
 14 (B) represent senate districts that have territory within the
 15 corridor; and
 16 (C) are not affiliated with the same political party.
 17 If all the senate districts that have territory within the corridor are
 18 represented by members of the senate who are from the same
 19 political party, the president pro tempore shall appoint a member
 20 of the senate who represents a senate district that is located
 21 anywhere in a county that has territory within the corridor to
 22 satisfy the requirement under clause (C).
 23 SECTION 48. IC 5-24 IS REPEALED [EFFECTIVE UPON
 24 PASSAGE].
 25 SECTION 49. THE FOLLOWING ARE REPEALED [EFFECTIVE
 26 JULY 1, 2009]: IC 13-11-2-163; IC 13-11-2-256; IC 13-11-2-257;
 27 IC 13-13-6; IC 13-23-6.
 28 SECTION 50. **An emergency is declared for this act.**

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